IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

Crl.MC.No. 924 of 2006()

CC.152/2006 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

.....

PETITIONER/ACCUSED NO.1:

C.E. BINU, CHULLY HOUSE,
KOOVAPADY P.O., MAVELIPADY, PERUMBAVOOR.

BY ADV. SRI.K.VINOD CHANDRAN

RESPONDENTS/COMPLAINANT, ACCUSED NO.2 & STATE:

---

1. T.K. HRYDAYANANDA KUMAR,
AGED 58 YEARS, S/O T.S. KUMARAN, 11/285,
AMARAVATHY JUNCTION, K.B. JACOB ROAD,
FORT COCHIN, COCHIN-1.

2. SIJO PAUL, AGED 27 YEARS,
S/O. PAUL, NEAR CHULLIL AGENCIES,
MAVELIPADY JUNCTION, KOOVAPADY P.O.,
NEAR PERUMBAVOOR POLYTECHNIC,
PERUMBAVOOR.

3. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.G.SUBRAMANIAN
SRI.T.A.SHAJI
PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.924 of 2006

Dated this the 21st day of November 2006

O R D E R

The petitioner is the first accused in a private complaint filed by the first respondent herein. The crux of the allegation is that a car entrusted to the first accused, allegedly a money lender on the strength of a notarised agreement, has been misappropriated by the first accused. Neither is the car returned nor is the rent paid. It is, in these circumstances that it is alleged that the petitioner along with the co-accused is guilty of offences punishable under Section 120B, 406 and 465 read with 34 I.P.C. The allegation under Section 465 is raised on the plea that there was a deliberate attempt to sign differently in the said notarised agreement.

2. On the complaint filed, the learned Magistrate has taken cognizance. The petitioner and the co-accused have already appeared before the learned Magistrate. The learned counsel for the petitioner has come before this court with the prayer that the prosecution against the petitioner may be quashed, invoking the powers under Section 482 Cr.P.C.

3. What are the grounds? The learned counsel for the petitioner contends that the allegations raised are false. Secondly, it

is contended that the allegations, even if accepted, cannot amount to the offences alleged.

4. At this stage of the proceedings, it is not possible for the court by exercising powers under Section 482 Cr.P.C to decide whether the allegations are true or not. Allegedly, there is a notarised agreement under which a car belonging to the complainant has been entrusted to the petitioner. There is no contention that the vehicle has been returned. The vehicle has not been traced. It is impossible for this court at the present stage and with the available inputs to hazard any opinion on the acceptability of the allegations raised.

5. The contention that the allegations raised, even if accepted in toto, will not reveal any offence does not at all appeal to me as acceptable. I shall carefully avoid any detailed discussion on merits on this aspect lest it should prejudice the interests of the parties.

6. The learned counsel for the petitioner finally submits that the continued pendency of the proceedings is causing great inconvenience and prejudice to the petitioner. It is prayed that there may atleast a direction for expeditious disposal of the case against the petitioner. The petitioner will undoubtedly be entitled to claim discharge at the appropriate stage under Section 245(1) or 245(2)

Cr.P.C. In case the learned Magistrate is of the opinion that the petitioner is not entitled to be discharged under Section 245(1) or 245 (2) Cr.P.C, every effort shall be made for expeditious disposal of the case against the petitioner.

7. In the result, this Crl.M.C is dismissed with directions/ observations. The learned Magistrate shall consider the prayer if any of the petitioner for discharge under Section 245(1) and 245(2) Cr.P.C. At any rate, proceedings shall be disposed of as expeditiously as possible, at any rate, within a period of six months from the date on which a copy of this order is placed before the learned Magistrate.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006